

# Michigan District Judges Association



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May 6, 2011

Representative Mark Meadows  
P.O. Box 30014  
Lansing, MI 48909-7514

Senator Rick Jones  
P.O. Box 30036  
Lansing, MI 48909-7536

Representative Anthony Forlini  
S-788 House Office Building  
P.O. Box 30014  
Lansing, MI 48909

RE: Senate Bill 258  
House Bill 4372 Meadows  
House Bill 4393 Forlini

Dear Sirs:

The Michigan District Judges Association has reviewed your legislation concerning Michigan's minor in possession of alcohol (MIP) law. We support these bills.

We would also like to bring to your attention two issues concerning this statute:

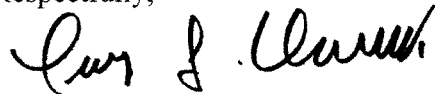
First, we see cases where young people charged with MIP have serious substance abuse issues. This does not apply to every MIP case. In these serious cases; however, we would like to have additional rehabilitative tools at our disposal. For example, in a recent Michigan Court of Appeals opinion a potential flaw with our current MIP statute many have been exposed. In that case, Bloomfield Twp. v. John Michael Williams (#293553) issued February 15, 2011, a young person had four MIP citations, and the court concluded that each of those charges must be treated as a first offense. This case has not been published and is, therefore, not binding on the trial courts. However, it may be a correct reading of the current statute, and the case may be published in the future. We do not think this conclusion is consistent with the intent of the MIP statute.

Secondly, we often see young people who had a prior case discharged without an adjudication of guilt and shortly thereafter picked up another conviction for MIP. If the court places that person on probation for this second offense but the person ignores the probation, the court does not have much power to enforce the probation violation since we are precluded from sentencing the individual to jail on a conviction of MIP first offense. If we were able to treat this as a true second conviction, the court would be able to enforce the probation order with the threat and/or imposition of jail.

There are several shortcomings in the current statute from our perspective. We would like the discretion to use possible incarceration as an incentive to complete probation for all MIP offenses. However, we realize that the Legislature clearly rejected jail as a possibility for 1<sup>st</sup> offense MIP. We respect that decision and are not asking you to reconsider it. We ask that the MIP statute be amended to give trial courts clear discretionary authority to jail probation violators on **all second or subsequent offenses**. Draft language that would accomplish this change is attached.

Thank you for your time in considering this matter. Please contact the undersigned if you have any questions or concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "Terry L. Clark". The signature is fluid and cursive, with the first name "Terry" and last name "Clark" clearly distinguishable.

Judge Terry L. Clark  
President  
Michigan District Judges Association